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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,345	06/22/2001	Michael Gary Platner	050416	8906

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EXAMINER

MISIASZEK, MICHAEL

ART UNIT	PAPER NUMBER
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3625

MAIL DATE	DELIVERY MODE
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07/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/888,345

Applicant(s)

PLATNER ET AL.

Examiner

Michael Misiaszek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Prosecution Status

Applicants arguments filed 4/24/2007 have been received and reviewed. The status of the claims is as follows:

Claims 32-38 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 32, 33, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messner in view of Hinrichs.**

Regarding Claim 32

Messner discloses a method comprising the steps of:

- receiving payment from a purchaser for a certificate for an online product of a vendor, said certificate comprising an authorization code having at least one characteristic that identifies said purchaser (at least column 6, lines 24-40: purchase pays for monetary value of certificate, certificate comprises account number which can be used to identify purchaser)
- providing said certificate in a physical form to said purchaser (at least column 11, lines 10-20: purchaser may receive physical gift card)

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- providing said online product to said user in response to entry of said authorization code (at least column 10, lines 14-58: product delivered when account number verified and transaction completed)

Messner does not explicitly disclose:

- receiving entry of said authorization code on a web site via which said online product can be obtained, wherein said authorization code is entered on said web site by a user to whom said certificate has been transferred from the purchaser
- determining the identity of said purchaser from the authorization code received from said user

Hinrichs teaches that it is known to include receiving an authorization code on a web site (at least paragraph [0065]: user enters award code on merchant site) and determining the identity of the purchaser from the authorization code (at least paragraph [0066]: reports sent to award account provider; identity of provider must be determined in order to send report) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Messner with the authorization code entry and purchaser identification, as taught by Hinrichs, since such a modification would have provided more efficient management of gift accounts (at least paragraph [0066] of Hinrichs).

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Regarding Claims 33, 37, 38

Messner discloses:

- said certificate designates a specific online product of the vendor to be provided to the user (at least column 3, lines 20-26: direct recipient to specific product)
- said certificate entitles the user to obtain the online product for no fee (at least column 6, lines 24-30: certificate has monetary value associated with it that can be used to purchase entire product)
- said certificate entitles the user to obtain the online product at a reduced fee (at least column 6, lines 59-67: discounts can be applied)

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2. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messner in view of Hinrichs, as applied to claim 32 above, and further in view of Barrot.

Messner and Hinrichs disclose the claimed invention except for:

- said online product pertains to the funeral industry

Barrot teaches that it is known to offer online products pertaining with the funeral industry (at least abstract) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method, as taught by Messner, with the offering of online products pertaining to the funeral industry, as taught by Barrot, since such a modification would have provided a means for a funeral provider to inform families and friends of the deceased about additional products not displayed on the showroom floor of the funeral home (at least paragraph [0005] of Barrot).

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3. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messner in view of Hinrichs, as applied to claim 32 above, and further in view of Dixon.

Messner and Hinrichs disclose the claimed invention except for:

- said certificate is made of paper and comprises multiple pages of material

Dixon teaches that it is known to include a paper certificate comprising multiple pages (at least paragraph [0065]: coupon booklet made of paper and has multiple sheets) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method, as taught by Messner, with the certificate made of paper and having multiple pages, as taught by Dixon, since such a modification would have provided a booklet having a plurality of items with information identifiable with a single bar code (at least paragraph [0011] of Dixon).

Response to Arguments

Applicant's arguments with respect to the combination of Messner and Hinrichs have been fully considered but they are not persuasive. Applicant asserts that it would not have been obvious to combine Messner and Hinrichs because "there is no reason to do so, absent knowledge of the claimed invention." In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the instant case, a motivation, which is within the knowledge of one of ordinary skill in the art at the time the claimed invention was made, was cited for combining Messner and Hinrichs in the rejection above. Accordingly, the combination of the references is proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Misiaszek whose telephone number is (571) 272-6961. The examiner can normally be reached on 8:00 AM - 4:30 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael A. Misiaszek
Patent Examiner
7/16/2007


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